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Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Marshall Islands*

The present report is a summary of 4 stakeholders' submissions[1] to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

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Information provided by stakeholders

A. Background and framework

1. Scope of international obligations

1. Kaleidoscope Australia Human Rights Foundation (KAHRF) referred to recommendations accepted by the Republic of Marshall Islands (RMI) during its first UPR in 2010 to ratify the main international human rights instruments.[2] It stated that RMI has not ratified the majority of key human rights treaties including the ICCPR and the ICESCR. It added that RMI has previously acknowledged that its ratification of international treaties in respect of human rights was insufficient. However, since the last UPR, no further progress has been made to rectify this issue. KAHRF recommended that RMI ratify all significant human rights treaties and their Optional Protocols to reinforce the implementation of, and compliance with, international human rights law in the country.[3]

2. Institutional and human rights infrastructure and policy measures

2. Joint Submission 1 (JS1) recommended that RMI establish a national commission on human rights.[4] It also recommended that RMI establish a Government body within the national commission on human rights or within the Ministry of Internal Affairs to address the needs of all individuals, communities and populations adversely-affected by the legacy of military testing in the country.[5]

3. Joint Submission 2 (JS2) indicated that the "National Gender Policy" which would serve as a tool for gender mainstreaming across all Government offices, had remained in draft form since 2013. It recommended that the Government of RMI finalize and endorse the "National Gender Policy"; and urge all Government Ministries to implement it.[6]

4. JS2 also recommended that the Government of RMI allocate resources and provide support to non-governmental organizations to promote, implement and support it in ensuring the protection of human rights in the country.[7]

B. Cooperation with human rights mechanisms

Cooperation with treaty bodies

5. JS2 stated that RMI was a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) but had never submitted a report on its implementation. JS2 applauded the Government of RMI for ensuring a comprehensive stakeholder consultation on the various issues such as political engagement, economic empowerment, health and education, and environmental protection to include in the report. However, the CEDAW report had yet to be completed and endorsed by the Government. JS2 recommended that the Government of RMI finalize the report and submit it; and take into account the information presented in the report to promote and enhance programmes in the country that protect and promote women's and young girls' rights.[8]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

6. Despite the significant human rights protections under the Constitution, there were no laws which prohibit discrimination against a person based on sexual orientation or

gender identity, according to KAHRF.[9] KAHRF recommended that RMI amend Article 2 of the Constitution to include sexual orientation and gender identity among the grounds upon which a person cannot be discriminated against; and enact comprehensive anti-discrimination legislation that prohibits discrimination on the grounds of sexual orientation and gender identity/expression.[10] JS2 also recommended that RMI revise its Constitution to include sex and disability in the list of non-discriminatory grounds.[11]

2. Right to life, liberty and security of the person

7. JS2 indicated that as a party to the CEDAW, RMI has slowly increased its efforts to address violence against women. The passage of the *Domestic Violence Prevention and Protection Act (DV Act)* in 2011 was a real move forward, according to JS2. JS2 also indicated that following the passage of the *DV Act*, the Ministry of Internal Affairs requested from the United Nations Development Programme (UNDP) a costing exercise to implement the *Act*. The exercise covered the needs, capacity and budget issues of certain Government Ministries to effectively implement their component of the *Act*.[12]

8. JS2 noted that with the assistance of Women United Together Marshall Islands (WUTMI), the Ministry of Internal Affairs established a Technical Working Group to ensure and follow the implementation of the *Act*. According to JS2, there was a slow implementation rate of the *Act* with the preparation of the Law Enforcement First Responders Protocol to be finalized and endorsed by the Ministry of Health. Moreover, there were still no designated counselling services or safe houses for women and children escaping domestic violence. JS2 added that the *Act* provided for a Domestic Violence Prevention and Protection Fund to be established, but there was no money in this Fund as at August 2014. The *Act* also required that the Secretary of Internal Affairs be responsible for collecting and maintaining data of reported domestic violence cases; monitoring, evaluating and providing surveillance to domestic violence cases; and reporting and providing necessary activities relating to domestic violence cases. According to JS2, none of this had been achieved until September 2014.[13]

9. JS2 recommended that the Government of RMI finalize and implement the First Responders Protocol to effectively address violence against women and girls; allocate a budget for the specific Ministries to implement the *DV Act* and most importantly allow collection, analysis and dissemination of data as an essential component for measuring the progress of anti-violence initiatives; and develop effective strategies for the Ministries to effectively implement the *Act*.[14]

10. Global Initiative to End All Corporal Punishment of Children (GIEACPC) stated that in RMI, corporal punishment of children was lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child. GIEACPC noted that no specific recommendation to prohibit corporal punishment was made during the first UPR of RMI in 2010, but the country accepted recommendations to take legislative and other measures to address violence against children.[15] GIEACPC hoped that RMI will receive during its second review in 2015 a specific recommendation requesting that legislation be adopted to prohibit all forms of corporal punishment of children in all settings, including the home, and explicitly repeal the right to use force for "prevention or punishment of the minor's misconduct" and for the maintenance of "reasonable discipline" in the Criminal Code.[16]

3. Right to privacy, marriage and family life

11. KAHRF stated that RMI has de-criminalized consensual same-sex activity and has supported the efforts of the international community to address the issue of discrimination against LGBTI persons. However, it indicated that the *Adoptions Act 2002 (Adoptions Act)* which governed the adoption of all resident children in the country, explicitly prohibited

same-sex couples, or an individual living as a member of a same-sex couple, from being eligible to petition for adoption. According to KAHRF, coupled with the deficiencies under the local law to prevent discrimination, RMI's lack of international treaty ratification meant that the human rights of LGBTI persons remained vulnerable.[17]

12. KAHRF recommended that RMI amend the *Adoptions Act* to remove discrimination against same-sex couples and LGBTI people.[18]

4. Right to health

13. JS1 expressed concern that residents of RMI at the time it was a United Nations-designated Strategic Trust Territory administered by another country, experienced from 1946 to 1958 unprecedented fallout and environmental contamination that compromised the health of the individuals, communities and an entire nation. JS1 reported that communities living immediately downwind suffered near fatal exposures from March 1, 1954 Bravo Test fallout and residents of Rongelap, Ailinginae and Utrok Atolls were evacuated, while residents of other islands and atolls in the northern chain exposed to dangerous levels of fallout were not evacuated. JS1 indicated that survivors of acute radiation exposure and age-matched subjects from other less contaminated atolls, endured decades of imposed medical research documenting the human effects of exposure in a select portion of the exposed population while ignoring radiogenic health conditions in other island communities. According to JS1, this human subject experimentation program had been acknowledged as a violation of human rights involving potential harm and conducted without informed consent.[19]

14. JS1 added that the 177 Health Care Program established under the Compact of Free Association concluded between RMI and the former administering country, provides healthcare services to members of the four atolls communities officially recognized in 1954 by the former administering country as exposed, namely Bikini, Enewetak, Rongelap and Utrok Atolls. With annual funding provided by the former administering country, this system services only the basic needs of these four communities, it does not have the ability to diagnose many conditions, nor does it have the means to provide late-stage cancer treatments, according to JS1.[20]

15. In the light of that situation, JS1 recommended that RMI seek bilateral engagement and international partnerships in building, staffing and sustaining a comprehensive health treatment system in the country that attended to the acute, chronic and inter-generational effects of exposure to radiogenic and other toxic contaminants resulting from the military use of RMI; until such time as local health needs could be fully addressed within the nation, establish or strengthen agreements to insure reliable and timely access to high standard cancer care that was seamlessly integrated with a system of quality local primary and continuing care and follow-up; as well as prioritize regular trainings for all outer island medical staff for radiogenic and related degenerative illness.[21] JS1 also recommended that RMI demand a full and independent review of history, performance and needs of the 177 Health Care Program.[22]

16. JS2 reported that a review of HIV, human rights and the law was conducted by the Regional Rights Resources Team (RRRT) in 2009. This reviewed existing legislation to identify its scope for protecting the human rights of those who were living with HIV or at risk of HIV. The review identified a number of inconsistencies between existing policies, legislation and practice related to the protection of human rights. According to JS2, although the anti-discrimination protections of the Communicable Diseases Act were helpful, other aspects were likely to impede prevention of HIV and sexual health. Some provisions of the Communicable Diseases Act were inconsistent with a human rights based approach to prevention, treatment care and support. JS2 indicated that the review recommended strengthening the privacy and confidentiality provisions; and that the

Government and the private sector should develop a code of practice on HIV in the workplace which protected people from stigma and encouraged information, education, access to services and confidentiality. JS2 added that there was also a need to strengthen understanding and awareness of the rights of people living with HIV and those who were at risk of HIV across the whole community.[23]

17. JS2 recommended that the Government of RMI revise legislation or develop new legislation to ensure the full extent of protection of the rights of people living with HIV; integrate HIV and sexual reproductive health into school curriculum; allocate funds to civil society organizations to address HIV at the community level; and support programs for targeted groups that were best reached by non-governmental organizations.[24]

5. Right to development, and environmental issues

18. JS1 stated that indigenous rights to a sustainable way of life have been hugely impacted on by inter alia environmental contamination and displacement. Some highly contaminated debris has been concentrated and capped with cement in the "Runit Dome" in Enewetak Atoll which is designated off-limits.[25] JS1 also indicated that despite decades of remedial attention from the former administering country, the fundamental conditions of life in RMI remain tenuous, conditions made clear through the RMI Nuclear Claims Tribunal (NCT) deliberations and judgments, most recently reconfirmed by the 2012 report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (Special Rapporteur on toxic waste). According to JS1, the NCT's administrative court process represented a *defacto*-truth commission for RMI, and the promise of meaningful reparation outlined in NCT awards has, to date, been illusive.[26]

19. JS1 recommended that RMI, inter alia, continue to seek bilateral engagement to adopt the 2012 recommendations of the Special Rapporteur on toxic waste, including the full funding of the NCT which historically served as a *defacto*-truth commission, with awards that aimed to compensate, remediate and support the restoration of a sustainable Marshallese way of life; prioritize livelihood projects to strengthen customs and culture of communities displaced from traditional homelands, including the four atolls communities; institutionalize and fund a museum to preserve RMI's nuclear heritage.[27]

20. JS1 also recommended that RMI seek support and technical assistance in conducting a high-resolution sampling of the "Runit Dome" in Enewetak Atoll, as part of a nation-wide assessment taking advantage of current and emerging nuclear disaster assessment, sampling and remediation technologies.[28]

21. JS1 stated that with climate change, the "Runit Dome" creates new human environmental rights issues. According to JS1, when -- and not "if" -- that structure succumbs to sea-level rise, it threatens communities beyond the resettled Enewetak community. It recommended including these concerns in the larger effort to understand and attend to the threats resulting from climate change.[29]

22. JS2 indicated that RMI was at the forefront of detrimental effects of climate change and accelerated sea level rise. It noted that the people of RMI experienced real threats of increased droughts, fresh water shortages, sanitation problems, food security, coastal erosion, increased salinity of fresh water lenses, and above all, sinking islands. This was a clear and present danger to the entire population and clear threat to the Marshallese peoples human rights.[30]

23. According to JS2, the consequence of these impacts would be severe for the Marshallese communities that depended highly on fish, water from the underground lenses and agriculture for their livelihood. JS2 stated that the impacts of climate change posed a fundamental threat to the rights to development, enjoyment of economic, social and cultural

rights, rights to adequate food, housing, adequate standard of living and improvement of living conditions, and the highest attainable standard of physical and mental health. It indicated that the Government of RMI continuously rose, at the regional and international levels, the Marshallese concern that when the situation would become worst, the people would have no choice but to be relocated.[31]

24. JS2 also stated that the Government of RMI had taken some steps to develop policies and action plans to adapt, mitigate and build resiliency of climate change. For example in 2011, RMI developed a "Climate Change Policy" focused on adaptation to develop necessary security measures that responded to the needs of the country, and fostered an environment in which RMI could be better prepared to manage climate variability and future climate projections. This policy contributed to the Marshallese people's achievement of their sustainable development goals outlined in their "Vision 2018". JS2 added that other plans included agency policies and plans such as the Energy Policy and Action Plan, the RMI Disaster Risk Management National Action Plan 2008-2018, the RMI Climate Change Roadmap 2010 which were consistent with the Pacific Islands Framework for Action on Climate Change (PIFACC) 2006-2015, the Pacific Regional Environment Program Strategic Plan 2011-2015, and a 2013 Joint National Action Plan integrating climate change and disaster risk reduction. However, according to JS2, there was minimal progress in the implementation of these plans. Moreover, there was little awareness of these plans for implementers among Government employees tasked to implement climate change and disaster risk reduction related programmes and projects, as well as non-Government organizations which also had projects addressing these two issues.[32]

25. JS2 indicated that at the 2013 Pacific Islands Forum Leaders meeting in RMI, the "Majuro Declaration" was adopted. RMI had introduced the "Majuro Declaration" at the United Nations and continued to garner support from countries to commit to reducing their emissions and use alternate forms of energy. According to JS2, an entire population depended on these kinds of commitments to ensure that the rights of people in small islands States like RMI were protected, and their land, food, water as well as heritage were safeguarded.[33]

26. JS2 recommended that the Government of RMI improve the information and communication system within its internal structure, for example by creating situations and projects that allowed for easy information flow thus enabling greater access to resources and creating an environment of positive engagement; conduct a review of all action plans and strategies in order to consolidate them and produce a common plan and strategy for all to utilize; continue to raise Marshallese concerns at the international level and call upon countries to commit to the "Majuro Declaration".[34]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a national human rights institution with "A" status).

Civil society

Individual submissions:

GIEACPC	Global Initiative to End All Corporal Punishment of Children, London (United Kingdom of Great Britain and Northern Ireland);
KAHRF	Kaleidoscope Australia Human Rights Foundation, Clayton (Australia).

Joint submissions:

JS1	Joint submission 1 submitted by: CPE : Center for Political Ecology, Santa Cruz (United States of America); and Enewetak, Rongelap, Utrik, Bikini Survivors (ERUB); Northern Star Rongelap Women's Club (Iju in Ean); Enewetak-Enjebi Sustainability Leadership Organization (Elimondik); Women United Together Marshall Islands (WUTMI); Cultural Survival; Indigenous World Association; International Women's Anthropology Conference (IWAC); International Network on Displacement and Resettlement (INDR); International Physicians for the Prevention of Nuclear War (IPPNW); and Japan Council Against A and H Bomb (Gensuikyo);
JS2	Joint submission 2 submitted by: WUTMI; Women United Together Marshall Islands, Majuro (Marshall Islands); and Jo-Jikum.

[2] For the full text of the recommendations, see for example A/HRC/16/12, paras. 56.1 (Chile), 56.2 (Algeria), 56.3 (Canada), (France), (New Zealand), (Maldives), 56.4 (Argentina), 56.5 (Spain), 56.6 (Slovakia).

[3] KAHRF, pp. 1 and 5.

[4] JS1, p. 9.

[5] JS1, p. 9.

[6] JS2, p. 3.

[7] JS2, p. 7.

[8] JS2, p. 3.

[9] KAHRF, p. 1.

[10] KAHRF, pp. 1 and 5.

[11] JS2, p. 2.

[12] JS2, p. 4.

[13] JS2, p. 4.

[14] JS2, p. 4.

[15] For the full text of the recommendations, see for example A/HRC/16/12, para. 56.20 (Argentina), (Slovakia), (Hungary).

[16] GIEACPC, pp. 1 and 2.

[17] KAHRF, p. 1.

[18] KAHRF, pp. 1 and 5.

[19] JS1, pp. 2 and 3.

[20] JS1, p. 5.

[21] JS1, pp. 9 and 10.

[22] JS1, p. 9.

[23] JS2, p. 5.

[24] JS2, pp. 5 and 6.

[25] JS1, p. 6.

[26] JS1, p. 8.

[27] JS1, p. 9.

[28] JS1, p. 10.

[29] JS1, p. 10.

[30] JS2, p. 6.

[31] JS2, p. 6.

[32] JS2, pp. 6 and 7.

[13] JS2, p. 7.
[14] JS2, p. 7.